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HOUSE BILL 1094

47TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2005

INTRODUCED BY

Teresa A. Zanetti

AN ACT

RELATING TO CRIMINAL SENTENCING; AMENDING THE DEFINITION OF
"VIOLENT FELONY" FOR THE PURPOSE OF SENTENCING A PERSON
CONVICTED OF THREE VIOLENT FELONIES TO A TERM OF LIFE
IMPRISONMENT.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. Section 31-18-23 NMSA 1978 (being Laws 1994,
Chapter 24, Section 2, as amended) is amended to read:

"31-18-23. THREE VIOLENT FELONY CONVICTIONS--MANDATORY
LIFE IMPRISONMENT--EXCEPTION.--

A. When a defendant is convicted of a third violent
felony, and each violent felony conviction is part of a
separate transaction or occurrence, and at least the third
violent felony conviction is in New Mexico, the defendant
shall, in addition to the sentence imposed for the third

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1 violent conviction when that sentence does not result in death,
2 be punished by a sentence of life imprisonment. The life
3 imprisonment sentence shall be subject to parole pursuant to
4 the provisions of Section 31-21-10 NMSA 1978.

5 B. The sentence of life imprisonment shall be
6 imposed after a sentencing hearing, separate from the trial or
7 guilty plea proceeding resulting in the third violent felony
8 conviction, pursuant to the provisions of Section 31-18-24 NMSA
9 1978.

10 C. For the purpose of this section, a violent
11 felony conviction incurred by a defendant before he reaches the
12 age of eighteen shall not count as a violent felony conviction.

13 D. When a defendant has a felony conviction from
14 another state, the felony conviction shall be considered a
15 violent felony for the purposes of the Criminal Sentencing Act
16 if that crime would be considered a violent felony in New
17 Mexico.

18 E. As used in the Criminal Sentencing Act,

19 ~~[(1) "great bodily harm" means an injury to~~
20 ~~the person that creates a high probability of death or that~~
21 ~~causes serious disfigurement or that results in permanent loss~~
22 ~~or impairment of the function of any member or organ of the~~
23 ~~body; and~~

24 ~~(2) "violent felony" means:~~

25 ~~(a) murder in the first or second~~

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1 ~~degree, as provided in Section 30-2-1 NMSA 1978;~~

2 ~~(b) shooting at or from a motor vehicle~~
3 ~~resulting in great bodily harm, as provided in Subsection B of~~
4 ~~Section 30-3-8 NMSA 1978;~~

5 ~~(c) kidnapping resulting in great bodily~~
6 ~~harm inflicted upon the victim by his captor, as provided in~~
7 ~~Subsection B of Section 30-4-1 NMSA 1978; and~~

8 ~~(d) criminal sexual penetration, as~~
9 ~~provided in Subsection C or Paragraph (5) or (6) of Subsection~~
10 ~~D of Section 30-9-11 NMSA 1978; and~~

11 ~~(e) robbery while armed with a deadly~~
12 ~~weapon resulting in great bodily harm as provided in Section~~
13 ~~30-16-2 NMSA 1978 and Subsection A of Section 30-1-12 NMSA~~
14 ~~1978.] "violent felony" means a first or second degree felony~~
15 ~~that involves the use or threatened use of force or violence."~~

16 Section 2. EFFECTIVE DATE.--The effective date of the
17 provisions of this act is July 1, 2005.